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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,668	04/11/2001	Ljerka Ukrainczyk	SP01-076	1810
22928	7590	12/31/2003	EXAMINER	
CORNING INCORPORATED			HOFFMANN, JOHN M	
SP-TI-3-1			ART UNIT	
CORNING, NY 14831			PAPER NUMBER	
			1731	

DATE MAILED: 12/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/832,668

Applicant(s)

UKRAINCZYK ET AL.

Examiner

John Hoffmann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 19-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 19-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. December 5, 2003.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 15 and 17 require that the passage is closeable and that the passage isolates the chambers. This is not understood because it appears to require something impossible. If the passage is closeable, that means it is not closed. And if it is not closed, then it is open. If it is open, then it does not isolate the two chambers.

Examiner cannot comprehend how something can isolate and be closable as required by the claim. It is noted that a passage is nothingness. And claims 13-14 are further not understood as to how a passage (i.e. nothingness) can have structure: the term "passage" is indefinite as to its meaning. Applicant is using "passage" in a manner that is repugnant to its ordinary meaning. Applicant has failed to indicate what new definition is applied to the term.

Claim 7 uses language which invokes the language of 35 USC 112 (paragraph 6.)

Where means plus function language is used to define the characteristics of a machine or manufacture invention, claim limitations must be interpreted to read on only the structures or materials disclosed in the specification and "equivalents thereof." (Two en banc decisions of the Federal Circuit have made clear that the Office is to interpret means plus function language according to 35 U.S.C. 112, sixth paragraph. In the first, *In re Donaldson*, 16 F.3d 1189, 1193, 29 USPQ2d 1845, 1848 (Fed. Cir. 1994), the court held:

The plain and unambiguous meaning of paragraph six is that one construing means-plus-function language in a claim must look to the specification and interpret that language in light of the corresponding structure, material, or acts described therein, and equivalents thereof, to the extent that the specification provides such disclosure. Paragraph six does not state or even suggest that the PTO is exempt from this mandate, and there is no legislative history indicating that Congress intended that the PTO should be. Thus, this court must accept the plain and precise language of paragraph six.

The claims are indefinite because it is impossible to tell what the corresponding structure is for the present means plus function language. Page 1, para 0003, line 3 identifies that 14 is an alignment device. The last line of page 7 refers to an x-y-z stage. Page 8, line 4 even suggests a camera or a window might be a "means for aligning".

Likewise for the means for supplying power of claim 9. It is unclear if "the structures or materials disclosed in the specification and "equivalents thereof"" is only the 15 amp power supply of page 3, or if it is the combination of the power supply and the Vytran splicer.

Claim 11 refers to "means for moving". Examiner cannot find any discussion of any structure which moves the support structure. It is deemed that one of ordinary skill could not determine what the structures or materials disclosed in the specification and

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"equivalents thereof" are because there isn't any mention of any structure for moving.

There must be disclosed structure in the specification.

Claim 16 it is unclear if an "a" is missing from before "rotateable", or if "member" should be pluralized.

Claim 11 is not understood because there is no antecedent basis for "the fibers".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-18 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. A typical house reads on the invention.

Claim 1: A kitchen can be a first chamber. A room that is right off the kitchen (say a living room) is the second chamber. Living rooms typically have incandescent light bulbs. Such light bulbs have a filament and an inert atmosphere to prevent the light bulb from oxidizing. It is deemed that the passageway between the rooms would be closeable by a sheet of plywood or the like. One can transport the light bulb between rooms. Examiner takes official notice that there were at least 5 houses in the 1970's which meet the "typical house" described in this Office Action.

Claim 2 is clearly met.

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Claim 3 is a method of use limitation with no structure. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Claim 4: This only limits the atmosphere in the method - it does not limit the atmosphere when the filament is in the second chamber.

Claim 5: The pressure in a typical house is greater than one can find outside the house - at an altitude of 25,000 feet.

Claim 6: a typical house has an oven and a refrigerator. Such can hold fibers and transport fibers.

Claim 7 : kitchens typically have windows. It is deemed that such are "means" as claimed as described at col. 8, line 4 of the present specification. This applies to claim 8 also.

Claim 9: it is deemed that a typical power outlet is equivalent to Applicant's disclosed means for supplying power.

Claim 10: the metal base of the light bulb is the support structure. The support structure is removable by rotation and withdrawing from the socket.

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Claim 11 it is deemed that a typical socket could be used for moving the support structure to align the filament with any fibers desired. Although it might require disconnecting the socket from a wall or from other structure.

Claim 12: one could use a pin or a flashlight to detect gaps. Such being common structure in a typical house. The claims do not require the structure be interconnected.

Claim 13: it is deemed that a door is a gate valve.

Claim 14: a key hole is an aperture. When one closes the door, the aperture is not accessible to a person who is on the opposite side from the key hole.

Claim 15: A typical house has another room/chamber off of kitchens: bathroom/dining room/foyer/pantry. Only one is needed to provide a second chamber. Either room can be the selected room. One can move a light bulb from room to room.

Claim 16: most houses have a basement as a base. A basement can be rotated, by simply digging it up and rotating with a large crane.

Claim 17: The insertion of fibers is not structure, it is a step. All of the remaining features are addressed above. The same applies to claim 18.

### ***Conclusion***

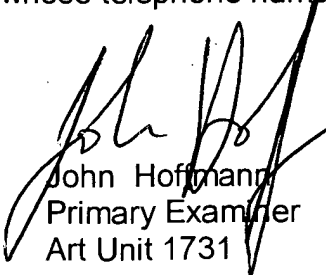
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yamauchi, Shinbori, Campbell and Zielinski are cited as being related to the invention.

The present claims are very broad. Although it is Office policy to typically search for the disclosed invention, presently Examiner cannot discern what the inventive concept is. All of the features are well known with well known advantages and there doesn't appear to be any new or unexpected results that are inherently required by the structure. Given the breadth of technology which would have air-locked chambers and filaments (including wires) the Office cannot reasonable conduct a full search for the entire invention at this time.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hoffmann whose telephone number is 703-308-0469. The examiner can normally be reached on Monday through Friday, 7:00- 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Griffin can be reached on 703-308-1164. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

  
John Hoffmann  
Primary Examiner  
Art Unit 1731

12-17-03